

REMARKS

Applicants thank the Examiner for the clear statement of grounds for rejection of the claims. Before addressing the Examiner's individual grounds for rejection of the claims, Applicants will briefly point out some differences between the cited references and the present invention which Applicant believes to be significant. Preliminarily, a difference in terminology should be noted. Please notice that the *Chi-Lin* application (US 2002/0080989) refers to the part of the device that hooks above and/or behind the ear as an "ear hook", and the part that sets near (in the case of *Chi-Lin*) the ear and from which sound is emitted as an "earpiece". On the other hand, in the present application, the entire device is referred to as the "earpiece", the part that goes over and behind the ear is the "ear hook" (as in *Chi-Lin*), and the part corresponding to the "earpiece" of *Chi-Lin* as an "ear bud". It does not appear that the Examiner was confused by these differences in terminology. However, Applicants believe that it is appropriate to note these differences on the record prior to submitting the following comments. Applicants will endeavor to refer to the appropriate parts by the terminology used by the respective inventors.

Regarding substantive differences between the present invention and the cited prior art, there are several significant differences between the device taught by the *Chi-Lin* application and that of the present invention. An important difference is the fact that, in the *Chi-Lin* device the "earpiece" (2) is suspended from the "ear hook" (1) and affixed thereto by a ball socket (21). Note that Fig. 2 of *Chi-Lin* – which is depicted on the front cover – shows the *Chi-Lin* device partially disassembled, with the "ball shaped protruded portion: 13 pulled away from the "circular hollow mounting section" (20).

In contrast to the above, according to the present invention, the "ear bud" (14) is physically connected to the "ear hook" (12) only by the "flexible connection" (14). When the device is in use, the "ear bud" 14 is supported by the anatomy of the human ear, and is not suspended from the "ear hook" 12 at all, thereby providing a full three degrees of freedom of adjustment in the position of the "ear bud" 14.

Applicants are sure that the Examiner has already discerned the above noted distinctions. However, it is apparent also that the Examiner has deemed that the previously presented claims do

not adequately make the necessary distinctions. Therefore, Applicants have amended independent Claims 1 and 18 to recite, essentially, that the “flexible connector” is the only physical connection between the “ear hook” and the “ear bud”.

Support for these amendments can be found throughout the specification. For example:

page 3, line 11: The flexible connector isolates the microphone from any vibration which might be produced at the ear bud.

page 5, line 30: The ear bud 14 may be supported by either the ear canal or the concha bowl of the ear, at the user's option.

page 5, line 4 The personal communications earpiece 10 has an ear hook 12, an ear bud 14, and a flexible connector 16 which both physically and electrically connects the ear bud 14 to the ear hook 12, and allows substantial rotational, angular and linear displacement freedom of relative movement between the ear bud 14 and the ear hook 12.

Additionally, the new claim amendments are well supported in the original drawings. Note that Figs. 1 through 4 of the drawings show the “ear bud” suspended and hanging from the “ear hook” (as when the device is not in use), while Fig. 5 shows the device in use with the “ear bud” supported in the user’s ear and the “flexible connector” clearly flexed such that the “ear bud” is NOT suspended from nor physically supported from the “ear hook”.

Regarding Claim Rejections under 35 USC §102:

Regarding independent Claims 1 and 18; the Examiner states that *Chi-Lin* discloses a flexible connector. The Examiner further recites that the “flexible” connector is items 13 and 20 in the *Chi-Lin* disclosure. As discussed above, the “connector” designated by numerals 13 and 20 is a type of ball-and-socket joint. A ball and socket joint is not flexible in the sense that term is used in the present application, but Applicants recognize that the original claim language may not have made the necessary distinction. Later, regarding Claims 4 and 21-22, the Examiner recites that *Chi-Lin* discloses the earpiece wherein “the flexible connector is an electrical cable (10)”. Of course, the “connector” cannot both BE the ball and socket joint and also BE the electrical cable therein. In contrast, according to the present invention, the electrical cable and the physical connector ARE one in the same, which was the point of those claims. Again, however, Applicants believe that any disagreement regarding this point should be alleviated by the present amendments to the Claims.

Accordingly, Applicants have amended Claims 1 and 18, as discussed above, in an attempt to make it clear in the claims that the "connector" is flexible in the sense of a fully flexible element, rather than just flexible in the sense that a junction of a ball and socket joint can be turned and/or rotated at that joint.

Regarding Claim Rejections under 35 USC §103:

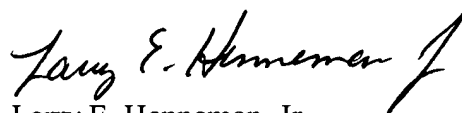
Applicant does not specifically dispute the Examiner's stated assumptions. Applicant relies here on the fact that those claims rejected on §103 grounds should be allowable as further restrictions on independent Claims 1 and 18.

SUMMARY

Claims 1 through 25 remain in this application. Independent Claims 1 and 18 have been amended as discussed herein. The remaining dependant Claims should now be allowable as further limitations on the independent Claims 1 and 18. It is now thought that this application is in complete condition for allowance, and such action is respectfully requested. Applicant urges the Examiner to call Applicant's undersigned counsel should there be any remaining issues.

Respectfully submitted,

HENNEMAN & SAUNDERS



Larry E. Henneman, Jr.
Attorney for Applicants
Registration No. 41,063
(269) 279-8820

Date: 11/13/03

714 W. Michigan Ave.
Three Rivers, MI. 49093

CERTIFICATE OF MAILING (37 CFR 1.8(A))

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Larry E. Henneman, Jr.